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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/820,424

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EXAMINER

PILKINGTON, JAMES

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/820,424	Applicant(s) DE JONGE ET AL.	
	Examiner JAMES PILKINGTON	Art Unit 3656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-29, 51-59 and 80-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 80-84 is/are allowed.
- 6) ☒ Claim(s) 26-29 and 51-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 26 is objected to because of the following informalities: Line 3 recites "a shifter for controlling the transmission of a motor vehicle, comprising" which is a duplicate recitation of the preamble in lines 1-2 should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-29, 51-57 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell, US PGPub 2004/0244524, in view of Kato, USP 6,679,809.

Regarding claim 26, Russell discloses a shifter for controlling the transmission of a motor vehicle, comprising: a base (22); a shift member (32) movably mounted to said base (22); a shift gate (34) fixed on the shift member (32), said shift gate having a plurality of transmission control positions (P,R,D, etc.); and said shift member (32) movable to input positions corresponding to said transmission control positions; a powered pawl (54/56) fixed to said base (22) for selectively engaging said transmission control positions of said shift gate (34) to restrict movement of said shift member; including: a controller operable coupled to said powered pawl (the controller is the circuit system shown in Figure 8, the box marked "solenoid" connects to the pawl) that

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actuates said powered pawl based on an input from the vehicle ignition (120), a position of the shift member (108), and a position of a vehicle brake pedal (128); a sensor (transmission switch) generating a signal (dependent on position) to said controller such that said controller can determine which input position said shift member is in, and wherein said controller controls said powered pawl based upon vehicle operating parameters and the position of said shift member (final output of control system is the solenoid which is connected to the pawl).

Russell does not disclose an additional operation parameter other than vehicle ignition, shift member position and brake pedal position.

Kato teaches a shift lever assembly wherein an engine revolution speed signal (e) is used to control the shifting of a lever to another gear (C3/L6-C4/L7) for the purpose of preventing careless operation of the shift knob and eliminating the possibility of jack-rabbit starts or hard braking (C3/L36-38).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Russell and provide a shift lever assembly wherein an engine revolution speed signal is used to control the shifting of a lever to another gear, as taught by Kato, for the purpose of preventing careless operation of the shift knob and eliminating the possibility of jack-rabbit starts or hard braking.

Regarding claim 27, Russell discloses the sensor (transmission switch) generates a signal proportional to the distance moved (switch position changes with each position selected), said controller controls said powered pawl based on signal.

Regarding claims 28 and 29, Russell discloses a movable input member (button on shift knob 48, Figure 4, or flow chart character 124), said controller controls said powered pawl based on the number of times said input member is moved during a predetermined time interval, said controller moves said pawl a first distance if said input member is moved once during said time interval, and moves said pawl a second distances that is different than said first distance if said input member is moved twice during said time interval (the claim does not establish the length of the time interval, a first push of the button will move the pawl a first distance/direction, a second push of the button will move the pawl a second distance/direction, this can occur during an infinite time interval).

Regarding claim 51, Russell discloses a shifter for controlling the transmission of a motor vehicle, comprising: a base (22); a shift member (32) movably associated with the base (22) for movement to a plurality of gear positions (P,R,D, etc.); a powered pawl mechanism (54/56) configured to selectively restrict movement of the shift member (32) and a controller configured to control the powered pawl mechanism (the controller is the circuit system shown in Figure 8, the box marked "solenoid" connects to the pawl) based on an input from the vehicle ignition (120), a position of the shift member (108), and a position of a vehicle brake pedal (128).

Russell does not disclose an additional operation parameter other than vehicle ignition, shift member position and brake pedal position.

Kato teaches a shift lever assembly wherein an engine revolution speed signal (e) is used to control the shifting of a lever to another gear (C3/L6-C4/L7) for the purpose of preventing careless operation of the shift knob and eliminating the possibility of jack-rabbit starts or hard braking (C3/L36-38).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Russell and provide a shift lever assembly wherein an engine revolution speed signal is used to control the shifting of a lever to another gear, as taught by Kato, for the purpose of preventing careless operation of the shift knob and eliminating the possibility of jack-rabbit starts or hard braking.

Regarding claim 52, Russell discloses that the powered pawl mechanism (54/56) includes a pawl member (54/56) and a shift gate (34, engages with pawl), and wherein the pawl member is selectively shifted into engagement with the shift gate (34).

Regarding claim 53, Russell discloses an input device (button on shift knob 48) permitting an operator to provide the controller with a signal, the controller controlling the powered pawl based at least in part on the signal (location of input device labeled as 124 in Figure 8).

Regarding claim 54, Russell discloses that the shift member (32) comprises a shift lever; the input device comprises a movable member mounted on the shift lever (the input device is a movable button on the knob of the lever).

Regarding claim 55, Russell discloses that the movable member comprises a button that translates linearly (in and out of knob) between a rest position and an actuated position.

Regarding claim 56, Russell discloses that the controller controls the powered pawl based on at least in part on the position (on/off) of the movable member (see 124 Figure 8).

Regarding claim 57, Russell discloses that the movable member shifts between first and second positions (on/off); the controller controlling the powered paw based at least in part on the number of times the movable member is shifted between the first and second positions (repeatedly turning the switch on and off).

Regarding claim 59, Russell discloses that the controller determines a position of the shift member (transmission switch determines P, R, N etc.) and controls the powered pawl mechanism based on the position.

Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russell '524 in view of Kato, USP 6,679,809, as applied to claim 55, and further in view of Kito, USP 4,947,967.

Russell discloses all of the claimed subject matter as described above.

Russell does not disclose a manual release member operably connected to the pawl member when the button is at rest.

Kito teaches a manual release member (33) operably connected to the pawl member for the purpose of providing an override to the solenoid used to hold the pawl in the locked position (C7/L54-C8/L7).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Russell and provide a manual release member operably connected to the pawl member, as taught by Kito, for the purpose of providing an override to the solenoid used to hold the pawl in the locked position.

Allowable Subject Matter

Claims 80-84 are allowed.

Response to Arguments

Applicant's amendment in response the Appeal Board decision rendered on June 15, 2010 is presuming that the Boards silence to the remainder of the claims not listed in the new grounds of rejection is an indication of allowability. However, this is not the case, and as noted in the footnote on page 13 of the decision "no inference should be drawn from the failure to make a new ground of rejection for other claims," according claims 26-29 and 51-59 stand rejected in view of the new grounds of rejection set forth by the Appeal Board.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES PILKINGTON whose telephone number is (571)272-5052. The examiner can normally be reached on Monday - Friday 7-3.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571)272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMES PILKINGTON/
Examiner, Art Unit 3656
6/30/10

/Richard WL Ridley/
Supervisory Patent Examiner, Art Unit 3656